

ARCHITECTS LICENSING ACT

Part 1 - General Provisions

58-3a-101. Title.

This chapter is known as the "Architects Licensing Act."

58-3a-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Architect" means a person licensed under this chapter as an architect.
- (2) "Board" means the Architects Licensing Board created in Section 58-3a-201.
- (3) "Building" means a structure which has human occupancy or habitation as its principal purpose, and includes the structural, mechanical, and electrical systems, utility services, and other facilities required for the building, and is otherwise governed by the codes adopted under Title 58, Chapter 56, Uniform Building Standards Act.
- (4) "Complete construction plans" means a final set of plans and specifications for a building that normally includes:
 - (a) floor plans;
 - (b) elevations;
 - (c) site plans;
 - (d) foundation, structural, and framing detail;
 - (e) electrical, mechanical, and plumbing design;
 - (f) information required by the energy code;
 - (g) specifications and related calculations as appropriate; and
 - (h) all other documents required to obtain a building permit.
- (5) "Fund" means the Architects Education and Enforcement Fund created in Section 58-3a-103.
- (6) (a) "Practice of architecture" means rendering or offering to render the following services in connection with the design, construction, enlargement, or alteration of a building or group of buildings, and the space within and surrounding such buildings:
 - (i) planning;
 - (ii) facility programming;
 - (iii) preliminary studies;
 - (iv) preparation of designs, drawings, and specifications;
 - (v) preparation of technical submissions and coordination of any element of technical submissions prepared by others including, as appropriate and without limitation, professional engineers, and landscape architects; and
 - (vi) administration of construction contracts.
- (b) "Practice of architecture" does not include the practice of professional engineering as defined in Section 58-22-102, but a licensed architect may perform such professional engineering work as is incidental to the practice of architecture.
- (7) "Principal" means a licensed architect having responsible charge of an organization's architectural practice.
- (8) "Supervision of an employee, subordinate, associate, or drafter of an architect" means that a licensed architect is responsible for and personally reviews, corrects when necessary, and approves work performed by any employee, subordinate, associate, or drafter under the direction of the architect, and may be further defined by rule by the division in collaboration with the board.
- (9) "Unlawful conduct" as defined in Section 58-1-501 is further defined in Section 58-3a-501.
- (10) "Unprofessional conduct" as defined in Section 58-1-501 may be further defined by rule by the division in collaboration with the board.

58-3a-103. Education and enforcement fund.

- (1) There is created a restricted special revenue fund known as the "Architects Education and Enforcement Fund."

- (2) The fund consists of monies from:
 - (a) a surcharge fee placed on initial, renewal, and reinstatement licensure fees under this chapter in accordance with the following:
 - (i) the surcharge fee shall be determined by the department in accordance with Section 63-38-3.2; and
 - (ii) the surcharge fee shall not exceed 50% of the respective initial, renewal, or reinstatement licensure fee; and
 - (b) administrative penalties collected pursuant to this chapter.
- (3) The fund shall earn interest and all interest earned on fund monies shall be deposited into the fund.
- (4) The director may, with concurrence of the board, make distributions from the fund for the following purposes:
 - (a) education and training of licensees under this chapter;
 - (b) education and training of the public or other interested persons in matters concerning architectural laws and practices; and
 - (c) enforcement of this chapter by:
 - (i) investigating unprofessional or unlawful conduct; and
 - (ii) providing legal representation to the division when the division takes legal action against a person engaging in unprofessional or unlawful conduct.
- (5) If the balance in the fund exceeds \$100,000 at the close of any fiscal year, the excess shall be transferred to the General Fund.
- (6) The division shall report annually to the appropriate appropriations subcommittee of the Legislature concerning the fund.

Part 2 - Board

58-3a-201. Board.

- (1) There is created the Architects Licensing Board consisting of four architects and one member of the general public.
- (2) The board shall be appointed and serve in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating basis to:
 - (a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and
 - (b) advise the division in its investigation of these complaints.
- (4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Part 3 - Licensing

58-3a-301. Licensure required - License classifications.

- (1) A license is required to engage in the practice of architecture, except as specifically provided in Section 58-3a-304 or 58-1-307.
- (2) The division shall issue a license in the classification of architect to a person who qualifies under this chapter.

58-3a-302. Qualifications for licensure.

- (1) Except as provided in Subsection (2), each applicant for licensure as an architect shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63-38-3.2;
 - (c) provide satisfactory evidence of good moral character;
 - (d) have graduated and received an earned bachelors or masters degree from an architecture program meeting criteria established by rule by the division in collaboration with the board;
 - (e) have successfully completed a program of diversified practical experience established by rule by the division in collaboration with the board;

- (f) have successfully passed examinations established by rule by the division in collaboration with the board; and
 - (g) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualifications for license.
- (2) Each applicant for licensure as an architect by endorsement shall:
- (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63-38-3.2;
 - (c) provide satisfactory evidence of good moral character;
 - (d) submit satisfactory evidence of:
 - (i) current licensure in good standing in a jurisdiction recognized by rule by the division in collaboration with the board; and
 - (ii) current certification from the National Council of Architectural Registration Boards; or
 - (iii) current license in good standing in a jurisdiction recognized by rule by the division in collaboration with the board; and
 - (iv) full-time employment as a licensed architect as a principal for at least five of the last seven years immediately preceding the date of the application; and
 - (e) have successfully passed any examination established by rule by the division in collaboration with the board; and
 - (f) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualifications for license.

58-3a-303. Term of license - Expiration - Renewal.

- (1) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.
- (2) Each license automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with Section 58-1-308.

58-3a-304. Exemptions from licensure.

- (1) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in the stated limited acts or practices without being licensed under this chapter:
 - (a) a person offering to render architectural services in this state when not licensed under this chapter if the person:
 - (i) holds a current and valid architect license issued by a licensing authority recognized by rule by the division in collaboration with the board;
 - (ii) discloses in writing to the potential client the fact that the architect:
 - (A) is not licensed in the state;
 - (B) may not provide architectural services in the state until the architect is licensed in the state; and
 - (C) that such condition may cause a delay in the ability of the architect to provide architectural services in the state;
 - (iii) notifies the division in writing of his intent to offer to render architectural services in the state; and
 - (iv) does not provide architectural services or engage in the practice of architecture in this state until licensed to do so;
 - (b) a person preparing a plan and specification for a one, two, three, or four-family residence not exceeding two stories in height, exclusive of basement;
 - (c) a person licensed to practice professional engineering under Title 58, Chapter 22, Professional Engineers and Land Surveyors Licensing Act, performing engineering or incidental architectural acts or practices that do not exceed the scope of the education and training of the person performing architecture;
 - (d) unlicensed employees, subordinates, associates, or drafters of a person licensed under this chapter while preparing plans and specifications under the supervision of an architect;
 - (e) a person preparing a plan or specification for, or supervising the

- alteration of or repair to, an existing building affecting an area not exceeding 3,000 square feet when structural elements of a building are not changed, such as foundations, beams, columns, and structural slabs, joists, bearing walls, and trusses; and
- (f) an organization engaged in the practice of architecture, provided that:
 - (i) the organization employs a principal; and
 - (ii) all individuals employed by the organization, who are engaged in the practice of architecture, are licensed or exempt from licensure under this chapter.
 - (2) Nothing in this section shall be construed to restrict a draftsman from preparing plans for a client under the exemption provided in Subsection (1)(b) or taking those plans to a licensed architect for his review, approval, and subsequent fixing of the architect's seal to that set of plans if they meet the building code standards.

Part 4 - License Denial and Discipline.

58-3a-401. Grounds for denial of license - Disciplinary proceedings.

Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, assessing an administrative penalty, and for issuing a cease and desist order shall be in accordance with Section 58-1-401.

Part 5 - Unlawful and Unprofessional Conduct - Citations

58-3a-501. Unlawful conduct.

"Unlawful conduct" includes:

- (1) using the title "architect" or any other words, letters, or abbreviations indicating that the person using them is an architect if the person has not been licensed under this chapter, except as provided in Subsection 58-3a-304(1); or
- (2) engaging in or representing itself as engaging in the practice of architecture as a corporation, proprietorship, partnership, or limited liability company unless exempted from licensure under Sections 58-1-307 or 58-3a-304.

58-3a-502. Penalty for unlawful conduct.

- (1) (a) If upon inspection or investigation, the division concludes that a person has violated Subsections 58-1-501(1)(a) through (d) or Section 58-3a-501 or any rule or order issued with respect to Section 58-3a-501, and that disciplinary action is appropriate, the director or his designee from within the division for each alternative respectively, shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63, Chapter 46b, Administrative Procedures Act.
 - (i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-3a-501 or any rule or order issued with respect to Section 58-3a-501, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section 58-3a-501 or any rule or order issued with respect to this section.
 - (ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-3a-401 may not be assessed through a citation.
- (b) A citation shall:
 - (i) be in writing;
 - (ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

- (iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63, Chapter 46b, Administrative Procedures Act; and
- (iv) clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.
- (c) The division may issue a notice in lieu of a citation.
- (d) Each citation issued under this section, or a copy of each citation, may be served upon any person whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon his agent by a division investigator or by any person specially designated by the director or by mail.
- (e) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest a citation may be extended by the division for cause.
- (f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.
- (g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.
- (h) No citation may be issued under this section after the expiration of six months following the occurrence of any violation.
- (i) The director or his designee shall assess fines according to the following:
 - (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;
 - (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000; and
 - (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000 for each day of continued offense.
- (2) An action initiated for a first or second offense which has not yet resulted in a final order of the division shall not preclude initiation of any subsequent action for a second or subsequent offense during the pendency of any preceding action. The final order on a subsequent action shall be considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.
- (3) Any penalty which is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located. Any county attorney or the attorney general of the state shall provide legal assistance and advice to the director in any action to collect the penalty. In any action brought to enforce the provisions of this section, reasonable attorney's fees and costs shall be awarded to the division.

Part 6 - Practice Standards

58-3a-601. Seal - Design and implementation.

Every architect shall have a seal, the design and implementation of which shall be established by rule by the division in collaboration with the board.

58-3a-602. Plans and specifications to be sealed.

- (1) Any final plan and specification of a building erected in this state shall bear the seal of an architect licensed under this chapter, except as provided in Section 58-3a-304, in Title 58, Chapter 22, Professional Engineers and Land Surveyors Licensing Act, and by the codes adopted under Title 58, Chapter 56, Uniform Building Standards Act.
- (2) Any final plan and specification of a building prepared by or under the supervision of the licensed architect shall bear the seal of the architect

when submitted to a client, or when submitted to a building official for the purpose of obtaining a building permit, even if the practice is exempt from licensure under Section 58-3a-304.

58-3a-603.

Seal - Authorized use.

- (1) An architect may only affix the architect's seal to a plan and a specification when the plan and the specification:
 - (a) was personally prepared by the architect;
 - (b) was prepared by an employee, subordinate, associate, or drafter under the supervision of a licensee, provided the licensee or a principal affixing his seal assumes responsibility;
 - (c) was prepared by a licensed architect, professional engineer, or professional structural engineer in this state or any other state provided:
 - (i) the licensee in this state affixing the seal performs a thorough review of all work for compliance with all applicable laws and rules and the standards of the profession; and
 - (ii) makes any necessary corrections before submitting the final plan and specification:
 - (A) to a building official for the purpose of obtaining a building permit; or
 - (B) to a client who has contracted with an architect for the design of a building, when the architect represents, or could reasonably expect the client to consider, the plans and a specification to be complete and final;
 - (d) was prepared in part by a licensed architect, professional engineer, or professional structural engineer in this state or any other state provided:
 - (i) the licensee in this state clearly identifies that portion of the plans and specification for which the licensee is responsible;
 - (ii) the licensee in this state affixing the seal performs a thorough review of that portion of the plan and specification for which the licensee is responsible for compliance with the standards of the profession; and
 - (iii) makes any necessary corrections before submitting the final plan and specification for which the licensee is responsible:
 - (A) to a building official for the purpose of obtaining a building permit; or
 - (B) to a client who has contracted with an architect for the design of a building, when the architect represents, or could reasonably expect the client to consider, the plans and specifications to be complete and final;
 - (e) was prepared by a person exempt from licensure as an architect, professional engineer, or professional structural engineer provided that:
 - (i) the licensee in this state affixing the seal performs a thorough review for compliance with all applicable laws and rules and the standards of the profession; and
 - (ii) makes any necessary corrections before submitting the final plan and specification:
 - (A) to a building official for the purpose of obtaining a building permit; or
 - (B) to a client who has contracted with an architect for the design of a building, when the architect represents, or could reasonably expect the client to consider, the plan and specification to be complete and final; or
 - (f) meet any additional requirements established by rule by the division in collaboration with the board.

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